

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

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FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

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FIFTH SPECIAL SESSION

May 13, 1982

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SECOND CONFIRMATION SESSION

July 16, 1982

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Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: Back after the 1973 fuel shortage, we had a set-aside program in the state that allowed the Governor to declare a shortage that would implement a set-aside program which would allow for the mandatory allocation of fuel supplies throughout the state, would require the distributors, where they have a large supply, to reallocate some of those supplies to other parts of the state. This had a sunset and it did expire.

What this does is put that mechanism back on the books. It would only take effect when the Governor declared an emergency of sorts and then it would allow the Governor to require the distributors to make available up to 5 percent of their stocks for reallocation throughout the state so those areas where maybe they had absolutely no heating oil at all could have some of the excesses that might be down on the coast close where it was unloaded into the bulk storage tanks.

I think it is safe to assume that the distributors are not going to truck it if they can get the same price close to the tanks that they would if they had to move it several hundred miles.

This does have a sunset requirement in the law. I believe that it is 180 days, after which it would take an act of the legislature to continue it. It merely puts some emergency powers on the books to take care of reallocation of fuel if it should be required and it does have some sunsets and controls on it so that it can't be mis-handled.

Thereupon, the Bill was passed to be engrossed and sent up for concurrence. (Later Reconsidered)

Tabled and Assigned

Bill "An Act to Amend the Child Support Laws" (H. P. 2184) (L. D. 2070)

Was reported by the Committee on Bills in the Second Reading and read the second time.

On motion of Mr. Hobbins of Saco, tabled pending passage to be engrossed and tomorrow assigned.

Passed to Be Engrossed

Bill "An Act to Clarify and Make Corrections in the Inland and Fisheries and Wildlife Laws" (H. P. 2200) (L. D. 2079)

Was reported by the Committee on Bills in the Second Reading and read the second time.

Mr. MacEachern of Lincoln offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-670) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Amended Bills

Bill "An Act Excluding Wages of Certain Temporary Alien Workers from Unemployment Compensation Tax" (H. P. 1972) (L. D. 1947) (C. "A" H-664)

Was reported by the Committee on Bills in the Second Reading and read the second time.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Baker.

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: While we debated this bill somewhat last week, I feel that we are making a mistake if we are to pass the bill in the current condition it is in.

Those of you who are familiar with the issue and for those of you who are not, I will recap just briefly—this bill would exempt employers in the apple industry that employ Jamaican labor from having to pay the unemployment tax. The rationale for this was the fact that we do not have a reciprocal agreement with the government of Jamaica that would allow the Jamaican laborers to collect unemployment once there is not more work for them here.

Just to digress for one moment, it is my feeling that the state department should negotiate

a reciprocal agreement with the Island of Jamaica. Far too long our relationship with the Island of Jamaica has been strained beyond belief. This step in that direction would certainly go a long way in smoothing relations but that particular thing is beyond this body.

What I happen to feel, however, is that we are dealing with an issue that is within our reach and that is the issue of the concept of the Unemployment Compensation Fund. Many of you know that the fund is in trouble.

Now, while the amount that we are talking about is not a great deal, I should point out that the concept of the Unemployment Fund is a shared pooled concept. That is, all the employers of the state pay into the fund so that there would be some insurance and some wages for those employees when they are laid off and it is the responsibility of all the employers. By making a new exemption in this area, we get away from that concept and I feel that is wrong.

The bill simply exempts, as it is amended right now, employers who hire Jamaican labor for apply picking and only apple picking. If an employer wanted to hire a Jamaican laborer and use him in another area, even without the current reciprocal agreement they still have to pay the unemployment tax. We should not be making such a narrow exemption.

Reference was made to another exemption that we brought up here and passed earlier this session—I refer to Shared Fishermen's Bill. I would like to point out that that dealt with people that were getting paid part of the catch or being paid fish in lieu of a salary or wage and it seemed ludicrous to put a tax on the fish that was being paid out to these people. That particular exemption would not apply if any of these people were getting income in the form of a salary, wages or money, so let's make that very clear.

I feel that we should not make this narrow exemption at this time. I feel that by not making this exemption, I do not feel that the industry would be hurt, it is not that much money, I think it is the principle of keeping the shared pooled fund and I would like to move now for indefinite postponement of the bill and I would ask for a division.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I will ask you to stick by the decision you made last Friday, which was not to indefinitely postpone this bill. I think it is very important to remember that the apple industry has never paid into the unemployment program for the Jamaican workers. This state set a precedent several years ago; they have been exempted right along so that there is no loss to the fund and what we are looking at right now is to maintain that exemption and to make it come into compliance when the federal government acts on the bill they have before them. I guess I am asking you to keep the positions we had last week.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I find it rather odd to hear the argument that we have an unemployment insurance fund, a pool if you will, and therefore the apple growers should pay into it whether they can receive any benefit or not. I think that would be the same as saying that everybody in the State of Maine should buy auto insurance whether they own an automobile or not because the auto insurance industry also works on a pool concept. Maybe those who don't own a house should buy house insurance, fire insurance, because the fire insurance company policies work on a pooled concept. So the mere fact that here is a way of pumping some more money into the insurance pool doesn't stand up if there can't be a recipient to receive from it that which is being paid into it.

The SPEAKER: The Chair recognizes the

gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, I would like to pose a question through the Chair. Could anyone answer why, if these people were exempt in the past, why do we need a bill today?

The SPEAKER: The gentleman from Madawaska, Mr. McHenry, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: Because the federal exemption, I believe, ended January 1, 1978. It is now still before the Congress, it is bogged down in an omnibus bill and some portions of that omnibus bill are not in a committee of conference. The concern is that the Washington action may not be timely for the apple industry to begin asking for the agreement to bring in the Jamaican workers in a timely manner, which would distress the apple picking season which is a very tight kind of thing that they have to do. The Bureau of Labor has to give permission. They have to begin their action in filing for it. They challenged the UC tax assessment, had a hearing before the Maine Employment Security Commission to get permission to go ahead and do the necessary paper work they needed to do and we felt that maybe it was timely, upon their request, to make our statutes to reflect this exemption in our statutes, so they could meet their deadline.

The SPEAKER: The Chair will order a vote. The pending question is the motion of the gentleman from Portland, Mr. Baker, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

10 having voted in the affirmative and 77 in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended and sent up for concurrence.

Bill "An Act Relating to Assignment Risk Plans in Workers' Compensation Insurance" (H. P. 1995) (L. D. 1971) (C. "A" H-659)

Were reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended and sent up for concurrence.

Passed to Be Engrossed Emergency Measure

An Act to Revise the Education Laws (S. P. 897) (L. D. 2042)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, Members of the House: Since the time that the new draft of this recodification of Title 20 had come out of committee, several individuals and representatives of educational organizations around the state have contacted legislators and members of the Education Committee pointing out what seemed to them to be apparent errors or omissions in the recodification work of the Education Committee. We have reviewed all those criticisms that have been pointed out to us up to this point in time. Several of those criticisms were not valid at all and it merely required the committee pointing out to those individuals where the new section of the law applied and that satisfied those criticisms.

There were, however, several instances where some mistakes were made, where cross-references were made between the old law and this bill, where words may have been left out or were left out. In every instance where the committee has been able to identify an error or an omission, we have prepared the appropriate language to include in the Education Errors Bill which is still before the Education Com-

mittee.

The Education Committee will hold its final work session on the errors legislation this Tuesday. All the people who have spoken to us so far and have a problem with the bill have been invited or are in the process of being invited to come to that work session. One of the major criticisms, the one that seems to have aroused the most passion in people, was the section of the old law that dealt with respect to the flag and remembrance of veterans or people who have served in the Armed Services. In the recodification, we did not change the intent of that section at all; however, we did condense the language. But because of the criticism or the objections that were pointed out by several people, including representatives of veterans organizations, we will take the language as it appears in the current Title 20 and not change that at all and put that into the Errors Bill, so that the language as it appears in the law now will say in the new Title 20, or 20A as it will be called, once it goes into effect.

It is my understanding that once the bill leaves this body today and goes to the other body, it will be tabled pending final enactment there until the time the Education Committee is able to meet on Thursday and review any other errors or omissions that have not yet been pointed out to us.

It has not been the intention of the Education Committee to make any substantive changes at all in this recodification. In a bill of this size however, it is inevitable that there will be some small mistakes that will be made, and up to now every one that has been pointed out to us has been dealt with and the people who pointed out those criticisms have said that they have been satisfied with the way that we intend to handle it.

So I would hope at this point that this body would enact the legislation and then, as I said, I understand it will be tabled in the other body pending final enactment until the final errors workshop is held by the Education Committee.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. Murphy.

Mr. MURPHY: Mr. Speaker, Men and Women of the House: The Education Committee Chairman is very correct. Our committee broke into subcommittees, we worked all throughout the summer and fall. At every one of our public, open meetings, representatives of the Teachers Association, the Superintendents Association and the department were present. At any time that any one of those three organizations felt that there was a possible change in the meaning of that law, that was left alone, left in its original language.

What you have before you, almost a 400-page document, is a product from 1954 when it was last recodified through today. It has been a very active 30-year period. And if you are awed by the size, I think those of you who have been here the last two or three decades have contributed to the size of that statute.

There was an open invitation to all parties to participate, to observe and comment, and many have done so. There is an investment of a full year and \$53,000 in this study, and our only route that we can go in terms of some of these errors and omissions is through that errors and omissions bill. To reprint this document, putting in those few insertions, would be approximately \$10,000, so we would urge you to pass this as an enactor today and we will pick up any items that you point out through the errors and inconsistencies bill.

The SPEAKER: The Chair recognizes the gentlewoman from Rumford, Mrs. Erwin.

Mrs. ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to go on record as being one of those persons that would object as a veteran with regard to the law relating to respect of the flag, and the remembrance of veterans who have served their country in the armed forces being left out of the recodification of the Education Laws.

As I have been assured by the chairman, I would hope that it is tabled in the other body, so I will go along with it as long as I am assured of that.

The SPEAKER: The Chair recognizes the gentleman from Harrison, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I do have some concerns with this L.D. Some things have been brought to me as late as yesterday that there are substantial changes in the L.D. from the former legislation.

I do agree that there has to be something completed with getting everything into line so everybody knows where to look and find what they desire to find, but I also have a question about passing this today and then moving it down to the other body where they are supposedly going to table it. I feel very much safer when I have got a bird in the hand than two in the bush.

I would hope that somebody would get up and table this today pending the outcome of the hearings or further deliberations of the Education Committee so we will have an opportunity to take a look at those amendments that they are going to submit on an errors bill from the Committee on Education.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

Mr. ARMSTRONG: Mr. Speaker, I would like to pose a question through the Chair to the Chairman of the Education Committee, Representative Connolly.

I have in my town a christian school and I got besieged with calls this weekend and I really haven't had a chance to read the bill, but these people that called me are very concerned with the change of a few words in the new recodification. They tell me that in the old laws where the word "private school" appeared, under the new recodification it has been changed to "state approved private schools." Apparently, they felt this jeopardizes their existence somewhat. Is this something the committee has considered or is it something that is going to be considered by the committee this coming Thursday?

The SPEAKER: The gentleman from Wilton, Mr. Armstrong, has posed a question through the Chair to the gentleman from Portland, Mr. Connolly, who may respond if he so desires, and the Chair recognizes that gentleman.

Mr. CONNOLLY: Mr. Speaker and Members of the House: In response to the question, it was something that the committee did consider, or the subcommittee that was working on this particular section did consider. The criticism or objection that seems to be raised is whether or not state approval for private schools or christian schools in particular is being required now as part of this recodification and it wasn't something that was required previously. We have not made any changes in that at all. The same type of approval that was required under the existing Title 20 Education Laws are the same type of approval that is required under this legislation. However, if some of those people are not completely satisfied with the precise language that appears in the revision, in the recodification, then we obviously would take that up at the work session on Thursday.

The SPEAKER: The Chair recognizes the gentleman from Veazie, Mr. Treadwell.

Mr. TREADWELL: Mr. Speaker, I request a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is on passage to be enacted. This being an emergen-

cy measure, it requires a two-thirds vote of all the members elected to the House. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Armstrong, Baker, Beaulieu, Benoit, Berube, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Cahill, Carroll, Chonko, Cox, Crowley, Davies, Day, Diamond, G.W.; Diamond, J.N.; Dillenback, Erwin, Fitzgerald, Foster, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, H.C.; Hobbins, Huber, Jackson, P.T.; Joyce, Kane, Kany, Kelleher, Ketover, Kiesman, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; Masterton, Matthews, McCollister, McGowan, McHenry, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, A.; Nelson, M.; Norton, Paradis, P.; Pearson, Perkins, Perry, Peterson, Pines, Pouliot, Richard, Ridley, Rolde, Small, Smith, C.B.; Soulas, Soule, Swazey, Telow, Theriault, Thompson, Vose, Walker, Wentworth, Weymouth, Willey, The Speaker.

NAY—Austin, Bell, Bordeaux, Brown, K.L.; Callahan, Carrier, Carter, Clark, Conary, Connors, Connolly, Cunningham, Curtis, Damren, Davis, Dexter, Drinkwater, Fowlie, Gavett, Gillis, Higgins, L.M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, P.C.; Jacques, Jordan, Lancaster, Lewis, Livesay, Masterman, McPherson, Michaud, O'Rourke, Paradis, E.; Paul, Post, Randall, Reeves, J.; Reeves, P.; Roberts, Salsbury, Sherburne, Smith, C.W.; Stevenson, Stover, Strout, Studley, Tarbell, Treadwell, Twitchell, Webster.

ABSENT—Dudley, Jalbert, Lund, Racine, Tuttle.

Yes, 93; No, 53; Absent, 5.

The SPEAKER: Ninety-three having voted in the affirmative and fifty-three in the negative, with five being absent, the motion does not prevail.

The Chair recognizes the gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, having voted on the prevailing side, I move that we reconsider our action whereby this bill failed of enactment, and I further move that this be tabled one legislative day.

Thereupon, on motion of Mr. Connolly of Portland, tabled pending the motion of the same gentleman to reconsider and tomorrow assigned.

The following papers appearing on Supplement No. 3 were taken up out of order by unanimous consent:

Finally Passed Emergency Measure

RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands Being Classified under the Maine Tree Growth Tax Law (H. P. 2194) (L. D. 2074)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 133 voted in favor of same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Tabled Unassigned

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1982 (H. P. 2196) (L. D. 2075)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending final passage.

The following papers appearing on Supplement No. 4 were taken up out of order by unanimous consent:

Passed to Be Enacted